89-103

case number _____

UNITED STATES SUPREME COURT

October 1988 Term

Galahad v. Weinshienk, et. al

On Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit

PETITION FOR CERTIORARI

Arlo Galahad
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QUESTION PRESENTED FOR REVIEW

Whence arises and what sustains the de facto immunity of the federal judiciary from the antitrust laws?

LIST OF ALL PARTIES IN THE COURT BELOW

Individually, and in their representative capacities: all judges of the federal district court for the district of Colorado.

TABLE OF CONTENTS

Question Presented for Review.....1

List of all Parties.....2

Table of Contents.....3

Table of Authorities.....4

Reports of Previous Opinions.....5

Jurisdiction of this Court.....6

Statues and Rules.....7

Statement of The Case.....8

District Court Jurisdiction.....10

Argument.....11

Law.....11

Policy.....15

Appendix.....23

Court of Appeals Opinion & Judgment....

District Court Opinion & Judgment.....

District Court Complaint.....

TABLE OF AUTHORITIES

U.S. v. A.T.& T., 1981, 524 F.Supp.
1336, D.C.D.C.....12

Lawler v. Mot.Sci.Serv.Corp., 1955,
349 US 322, 327-329.....11

Brown v. Felsen, 1979, 442 US 127, 139...12

Wright, Miller,& Kane, Federal
Practice and Procedure,
Arts. 4416,4420,4421.....13

REFERENCE TO REPORTS OF OPINIONS BELOW

There have been no reports of opinions delivered in the courts below.

GROUNDS FOR JURISDICTION OF THIS COURT

28 U.S.C.2101(c) and rule 20 of this Court permits a petition for certiorari to this Court to be filed within 60 days after judgment below is entered.

The judgment below sought to be reviewed here was entered by the 10th Circuit Court of Appeals on 25 April 1989, their case number 88-2029.

No rehearing was sought.

The statutory provision believed to confer United States Supreme Court Jurisdiction is 28 U.S.C. 1254(1).

STATUTES AND RULES

Statutes:

15 U.S.C. 15 & 25(Clayton Act, Sect. 4 & 16)

15 U.S.C. 1 (Sherman Act, Sect. 1)

Rules:

Rule 1-a, Local Rules of Practice, U.S. District Court, Colorado:

"....Persons admitted to practice in the courts of the State of Colorado.... may be admitted to the bar of this Court..."

STATEMENT OF THE CASE

It is well-documented that the Judges of the United States District Court for the District of Colorado make money from restricting admission to the FEDERAL district court bar to only those admitted to practice before the State courts of Colorado.

This is an unlawful tying arrangement clearly in violation of the United States Antitrust laws.

The federal judiciary in Colorado is not really interested in formally considering such matters. It took two mandamus actions and four years to finally get the well-pleaded case out of the district court, whose summary dismissal was summarily affirmed by the 10th Circuit.

Both the District Court and the 10th Circuit have ignored the well-established favorable-to-the-complaint antitrust law in

this area.

But, all of the above are merely various overt manifestations of a more fundamental deficiency of spirit currently prevalent within the Judiciary.

It is of course not pleasant to view oneself and ones peers as being deficient morally, and accordingly such austere self-perception is rarely witnessed.

Nonetheless, so long as the Judiciary retains control of the Administration of Equity within this society, they should expect that not infrequently the source and fact of their inability to intelligently do so is again pointed out to them. As here manifested in their self-administered de facto immunity from the nation's antitrust laws.

DISTRICT COURT FEDERAL JURISDICTION

Jurisdiction in the Federal District Court well-pleaded complaint was based upon 28 U.S.C. 1337 (Commerce and Antitrust); 28 U.S.C. 2201,2202 (Declaratory Relief); 15 U.S.C. 15,25 (Clayton Act, Sect. 4 & 16); and 15 U.S.C. 1 (Sherman Act, Sect. 1).

ARGUMENT

Law:

Briefly summarized; the affirmed District Court finds a "res judicata" precluding the current antitrust complaint on the basis of a previous disposition of a constitutional issues complaint.

ALL "res judicata" law is decidedly contrary to such a position.

"Res Judicata" law divides itself into two parts; claim preclusion and issue preclusion.

Claim Preclusion:

"The basic claim preclusion result is clear: a new claim or cause of action is created as the conduct continues." Lawler v. Nat.Sci.Serv.Corp., 1955,[an Antitrust case], 349 US 322, 327-329.

The complained-of local District Court Rule continuing and having continued

uninterruptedly; each day of its existence has created and continues to create a new cause of action to which there can be no claim preclusion.

Issue Preclusion:

"...collateral estoppel [issue preclusion] treats as final ONLY those questions actually and necessarily decided in a prior suit." (Bracketed material and capitalization supplied.); Brown v. Felsen, 1970, 442 US 127,139.

Particularly in antitrust cases is this true; as for instance in U.S. v. A.T.& T., 1981, 524 F.Supp. 1336, D.C.D.C. where it was held that the 1949 non-divestiture settlement between the federal government and AT&T did not issue-preclude the federal government's 1981 antitrust divestiture action against AT&T, since to hold otherwise "...would be tantamount to granting the Bell System perpetual immunity from antitrust scrutiny..."

Likewise here: the Circuit Court of Appeals summary affirmation of the District Court summary dismissal is tantamount to granting the federal judiciary perpetual immunity from antitrust scrutiny.

Such, of course, is the intent; but it is not yet the law. Even were it to become such, it would have to be formally and publicly done so by Congress; not surreptitiously and slyly agreed upon in secret by those very same public servants charged with the responsibility of enforcing those very same antitrust laws.

Cases dealing with issue preclusion in situations not even so clear as here still reach the same point; as may be seen in Wright, Miller, Kane; Federal Practice and Procedure; Arts.4416-4421; where thirteen elements are deliniated as ALL having to be present to permit a finding of an issue preclusion. As set out in detail in Appellants Brief in the Circuit Court of Appeals, NINE of these are absent in the current case; the absence of only ONE being

sufficient to deny issue preclusion.

In Summary, then, on the Law:

The complained-of actions of defendants being of a continuing-action antitrust nature, there cannot be any claim preclusion.

The subject matter of the complaint never having been actually litigated, there cannot be any issue preclusion.

POLICY CONSIDERATIONS:

Tersely put:

There actually exists such a thing as right-and-wrong. But it simply cannot be comprehended by any manner of thought. It can solely be contacted through intelligent though subtle sensory perception. Participation in heirarchy necessarily deadens this perception. Beginning and continuing awareness of the perception-deadening aspect of heirarchy-participation steadily lessens the deadening.

Whence Arises This Lamentable Attitude of the Judiciary:

The observable fact is that the Judiciary has de facto placed itself beyond the reach of the very laws for whose administration it is responsible.

Whence arises this type of attitude and what sustains its existence within the Judiciary?

Essentially, the prevalent state of mind and spirit within the Judiciary is: 'Such a thing as right-and-wrong actually does not exist, except as adolescent delusions; all life is animal struggle, all human interactions are relative, one mans harm is anothers benefit; the best the Judiciary can ever hope to do is act as regulators of the human field of combat and prod the combatants to resolve their warfare with minimal violence.'

Now, any 10-year old will tell you that the above is utter nonsense; that right-and-wrong most certainly does exist and are always immediately evident to 10-year olds. Any Jurist will tell you that the 10-year old hasn't been around long enough to consider things from enough sides to agree that everything is relative.

For the Jurist, then, there being no objective right-and-wrong, there is then no reason not to feather ones own nest as comfortably as possible, both materially and

psychologically; to the extent one can get away with it.

Not finishing each day with a sense of leaving the world a better place than one found it, enjoyment of life for the Jurist becomes enjoyment of various psychological concepts such as eliteness and superiority.

Whence arises the current manifestation of this fundamental malaise; in the form of de facto self-imposed immunity from the Antitrust laws.

What Sustains this Lamentable Attitude:

Observe that the 10-year old tells us that he "senses" right-and-wrong, not that he attempts to reach it through complicated logic and extensive memory, as would a Jurist.

We are not surprised that a 10-year old has better physical vision than a 70-year old; nor should we be that their moral vision is equally keener. We understand the

physical processes that deteriorate our physical vision, but what is it that deteriorates our moral vision, and is there a way to slow it down?

There is. And it is immediately evident to anyone not emotionally attached to not seeing it...

Culturally, we have at least 6000 years of mainstream tradition to the contrary; but,... it is quite observable that participation in hierarchical social structures deadens ones senses, ones sensitivity, ones intelligence.

Human social hierarchy is founded and predicated upon two items of non-fact and non-intelligence; division and obedience. Division between the superiors and the inferiors; obedience from the inferiors to the superiors.

At any particular moment of time the relative abilities and skills of any group of people is different among them from

another moment of time; life is dynamic. Intelligent interaction among human beings dynamically adjusts itself to this fact of dynamically varying abilities and skills. Hierarchical division is relatively static; and forces a deadening of sensitivity to actual factual human dynamics.

Obedience, the doing of something by an inferior commanded by a superior, regardless of the action being non-intelligent; forces a deadening of sensitivity to the intelligence of ones actions.

Participation in hierarchy is participation in distortion of truth and fact. The human species would never have survived this long had not the human nervous system evolved a high degree of perceptiveness and sensitivity to the environment around it. In order for such a sensitive perceptive nervous system to participate in such a distortion of reality as hierarchy, the sub-conscious (or even conscious) mind has to erect some sort of

barrier to the perception of the distortion; generally in the form of some sort of concepts and beliefs.

To the rare extent the existence of this type of barrier is even realized, it is pleasantly believed that it is automatically selective, that no other part of ones life is affected. This is observably non-fact. The human nervous system has no mechanism of selective filters; and the conscious or sub-conscious mind is too coarse an instrument to perform so fine and so quick and so enduring an adjustment. All the mind can do is erect these semi-transparent walls and curtains to deaden and dampen sensory sensitivity and perception of the non-intelligence of participation in heirarchy.

These numbing barriers in our brains affect not just perceptions associated with hierarchy; but ALL sensory input, including sensitivity to and subtle perception of right-and-wrong.

The apt analogy is alcohol; the same numbing effect not only blots out painful memories but also the ability to safely drive an automobile.

Thus is sustained this current prevalent lamentable attitude of the Judiciary; perception of objective right-and-wrong being blocked by the barriers in our brains associated with participation in hierarchy.

What can be done:

We as a society and a culture unwittingly inherit hierarchy as our tradition. Generally, we are already deeply immersed in it habitually before ever we are in a position to perceive its true nature or erase our psychological attachment to it.

At such rare moments, however, (such as perhaps now) that we truly Perceive (not merely believe or consider) the fundamental non-intelligence of participation in hierarchy AND its necessary numbing of our

sensitivity to and perception of l.te in general and objective right-and-wrong in particular;...at such moments we reverse the momentum of this habitual deadening of our senses and begin to steadily recover our numbed sensitivities.

And from these moments onward, our participation in hierarchy has quite a different quality to it. We no longer glory in it, we are not longer psychologically attached to it. We participate in it as if walking on eggshells, painfully aware that at every step we are in a position to disseminate much evil.

Our sensitivities steadily returning, our daily actions steadily become more intelligent. Our actions, our life steadily becoming more intelligent, our interactions with people and life steadily become more harmonious. Our interaction with life steadily becoming more harmonious, we steadily join the 10-year old in his delight in being alive.

APPENDIX

10th Circuit Order & Judgment.....25

District Court Memorandum Opinion and Judgment.....28

Complaint.....47

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

GILES GALAHAD, Plaintiff-Appellant,

v.

ZITA L. WEINSHEINK; JOHN P. MOORE; RICHARD P. MATSCH; JOHN L. KANE; SHERMAN G. FINESILVER; HATFIELD CHILSON; JIM R. CARRIGAN; ALFRED A ARRAJ, Defendants-Appellees.

Case No. 88-2029 DC Col.# 84-BJ-1768

ORDER AND JUDGMENT

Before LOGAN and EBEL, Circuit Judges, and COOK, Chief Judge.**

**Honorable H. Dale Cook, Chief Judge, United Stats District Court for the Northern District of Oklahoma, sitting by designation.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not

materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The cause is therefore ordered submitted without oral argument.

* This order and judgment has no precedential value and shall not be -

cited, or used by any court within the Tenth Circuit, except for purposes of establishing the doctrines of the law of the case, res judicata, or collateral estoppel. 10th Cir. R. 36.3.

Plaintiff appeals from an order of the district court dismissing his complaint on the grounds of res judicata.

Plaintiff commenced this action in district court against the judges of the United States District Court for the

District of Colorado alleging that they had violated section 1 of the Sherman Act, 15 U.S.C. # 1 in promulgating Rule 1(a) (now Rule 300) of the Local Rules of Practice for that court.

Upon review of the district court's judgment in plaintiff's prior case, Galahad v. Weinshienk, 555 F. Supp. 1201 (D. Colo.), aff'd, Unpublished No. 83-1155 (10th Cir. filed September 2, 1983), cert. denied, 466 U.S. 936 (1984), we agree that the doctrine of res judicata bars this action. -28-For substantially the reasons stated therein, the judgment of the United States District Court for the District of Colorado is AFFIRMED.

The mandate shall issue forthwith. FOR THE COURT PER CURIAM 25 April 1989

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

Case # 84-BJ-1768

Giles Galahad, Plaintiff v.

Weinsheink, et. al, Defendants

MEMORANDUM OPINION AND ORDER

The plaintiff, Giles Galahad, filed this action in September 1984 alleging that the defendants, the judges for the United States District Court for the District of Colorado, had violated section 1 of the Sherman Act, 15 U.S.C. # 1, in promulgating rule 1(a) (now rule 300) of the Local Rules of Practice of the United States District Court for the District of Colorado, which conditions admission to the bar of this court on membership in the bar of the state of Colorado. Mr. Galahad had previously challenged local rule 1(a) on the grounds

that it violated various constitutional provisions and section 2 of the Sherman Act, 15 U.S.C. # 2. Civil No. 81-BJ-1205. The court dismissed that complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief could be granted. Galahad v. Weinshienk (Galahad I), 555 F. Supp. 1201 (D. Colo.), aff'd, No. 83-1155 (10th Cir. Sept. 2, 1983), cert. denied, 466 U.S. 936 (1984).

On October 15, 1985, the court heard arguments on all pending motions in this action. The court granted plaintiff's motion to file a second amended complaint and denied his motion to consolidate this action with the previous action (civil no. 81-BJ-1205), which had been closed. The court reserved ruling on the defendants' motion to dismiss the plaintiff's original complaint in this aetion. The plaintiff

having failed to file an amended complaint, the court now enters this memorandum opinion and order granting the defendants' motion to dismiss.

The defendants moved to dismiss this action on the grounds that the court's decision in Galahad I barred this action under the doctrine of res judicata. Under res judicata, or claim preclusion, "a final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action." Allen v. McCurry, 449 U.S. 90, 94 (1980) (citing Cromwell v. County of Sac, 94 U.S. 351, 352 (Oct. term 1876)) (emphasis added).

The plaintiff concedes that thie action involves the same parties as Galahad I but argues that claim preclusion is inapplicable here because none of the other

elements of the doctrine have been met.

He first argues that the granting of a rule 12(b)(6) motion to dismiss for failure to state a claim is not a final judgment on the merits. However, it is well recognized that "[t]he dismissal for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6) is a 'judgment on the merits.'" Federated Dep't Stores. Inc. v. Moitie, 452 U.S. 394, 399 n.3 (1981). A judgment on the merits is considered final "if it is not tentative, provisional, or contingent and represents the completion of all steps in the adjudication of the claim by the court . . . ." Restatement (Second) of Judgments # 13 comment R (1980). The court's decision in Galahad I was not tentative, provisional or contingent. (*1) The court found that there was "a concrete controversy appropriate--and ripe--for judicial determination." 555 F. Supp. at

1213. It weighed the plaintiff's stated claims against the applicable legal standards and found them wanting: "The consequencee of [plaintiff's] membership in the bar of other courts and the legal soundness of Local Rule 1(a) have been in question and have been resolved against him." ID. The court's decision left nothing for the court to do and ended the litigation except for appellate review, which the plaintiff sought. The court of appeals affirmed, and the Supreme Court denied certiorari. Clearly, the court's decision was a final decision on the merits. CF. Restatement (Second) of Judgments # 19 & comment Q (a valid and final judgment in favor of the defendant entered on a motion to dismiss for failure to state a claim bars another action by the plaintiff on the same claim).

Mr. Galahad next argues that res judicata

is inapplicable because the two cases present different claims. Definitions of what constitutes the same claim for purposes of claim preclusion "have not remained static over time." Nevada v. United States, 463 U.S. 110, 130 (1983) (citations omitted).

[I]n the days when civil procedure still bore the imprint of the forms of action and the division between law and equity, the courts were prone to associate claim with a single theory of recovery, so that, with respect to one transaction, a plaintiff might have as many claims as there were theories of the substantive law upon which he could seek relief against the defendant. . . . In those earlier days there was also some adherence to a view that associated claim with the assertion of a single primary right as accorded by the

substantive law, so that, if it appeared that the defendant had invaded a number of primary rights conceived to be held by the plaintiff, the plaintiff had the same number of claims, even though they all sprang from a unitary occurrence.

Restatement (Second) of Judgments # 24 comment B.

However, even in those days courts recognized that a judgment might bar not only subsequent actions on the same theory but also claims that could have been raised in the first action. See, S.u., Cromwell v. CountF of Sac, 94 U.S. 351, 352 (Oct. term 1876) (a final judgment on a claim "is a finality as to the claim or demand in controversy, concluding parties and those in privity with them, not only as to every matter which was offered and received to

sustain or defeat the claim or demand, but as to any other admissible matter which might have been offered for that purpose"). CF. Restatement of Judgments # 61 (1942) (causes of action are deemed the same if "based upon the same transaction" and "if the evidence needed to sustain the second action would have sustained the first action").

"The present trend is to see claim in factual terms and to make it coterminous with the transaction regardless of the number of substantive theories, or . . . the number of primary rights that may have been invaded [or] . . . the variations in the evidence needed to support the theories or rights." Restatement (Second) of Judgments # 24 comment S. The second Restatement adopts "a pragmatic standard to be applied with attention to the facts of

the cases " Id # 24 comment R. Under this approach, claims are the same if they arise from the same "transaction, or series of connected transactions, out of which the action arose." Id. # 24(1). Whether they arise from the same transaction depends on "such considerations as whether the facts are related in time, space, origin, or motivation . . . ." ID. # 24(2).

Applying these principles to the present case, the court concludes that this case involves the same "claim" as Galahad I. Both cases arise out of the same facts or "transaction," namely, this court's promulgation of local rule 1(a). CF. United Home Rentals. Inc. v. Texas Real Estate Comm'n, 716 F.2d 324, 328-29 (5th Cir. 1983) (all claims that a licensing agency's interpretation of its rules was unconstitutional arose from the same

"transaction"--the agency's demand that the plaintiff's employees be licensed--and hence constituted the same "cause of action" for res judicata purposes), cert. denied, 466 U.S. 928 (1984). The plaintiff conceded as much in his motion to consolidate: "both cases aris[e] out of the same set of facts " Plaintiff's Motion to Consolidate & Plaintiff's Motion to Withdraw and Substitute at 1.

Although the two complaints challenge local rule 1(a) on different legal theories (monopolization in Galahad I and combination to restrain trade in the present case), that is not enough to constitute different "claims" for purposes of claim preclusion:

That a number of different legal theories casting liability on an actor may apply to

a given episode does not create multiple transactions and hence multiple claims. This remains true although the several legal theories depend on different shadings of the facts, or would emphasize different elements of the facts, or would call for different measures of liability or different kinds of relief.

Restatement (Second) of Judgments # 24 comment G. See also Rrown V. Federated Dep't Stores. Inc., 653 F.2d 1266, 1267 (9th Cir. 1981) (state law claims arising out of the same transaction as federal antitrust claims that were dismissed are barred by res judicata).

Such a broad definition of "claim" is justified by the liberal rules governing pleading and discovery under the Federal Rules of Civil Procedure:

So far as pleading is concerned, the premise of the Federal Rules is that a pa P*rtF enould m* *bi* to etate his claim on any and every permissible foundation available under the substantive law. Furthermore, if a pleader describes generally the transaction by which he is aggrieved, the action may not be dismissed under the Federal Rules unless it is evident that no substantive theory can support his action; he is virtually required to plead himself out of court to suffer dismiesal at the pleading stage.

Restatement (Second) of Judgments ch. 1 at 9.

The plaintiff had the benefit of these liberal rules in Galahad I. The court did not limit its consideration to the

plaintiff's stated monopolization claim but considered whether the facts as alleged stated and claim under the antitrust laws. See 555 F. Supp. at 1208 (referring to the plaintiff's antitrust "claims," in the plural). (*2) Similarly, the court's holding in Galahad I did not depend on a careful parsing of the Sherman Act: "Plaintiff's conclusory allegations regarding the bar examination process do not state a claim sufficient to survive a Rule 12(b)(6) challenge, at least so far as they are grounded in the anti-trust laws." 555 F. Supp. at 1209 (emphasis added). In short, the court in Galahad I purported to deal with the plaintiff's antitrust claims generally. Thus, this is not a case in which the court in the first action expressly reserved the plaintiff's right to bring this action. CF. Restatement (Second) of Judgments #26(1)(b). Quite the opposite is true.

Nor has the plaintiff shown any other exception to the general rule of claim preclusion. (*3) CF. Marrese v. American Academy of Orthopaedic Surgeons, 470 U.S. 373 (1985) (state court judgment on state law claim did not necessarily preclude federal antitrust claim arising out of the same transaction because the federal claims could not have been raised in the state proceeding). See generally Restatement (Second) of Judgments # 26(1). The court therefore concludes that its decision in Galahad I precludes the plaintiff's claim in this action.

The rules of claim preclusion support important policies of certainty, finality and order. "Public policy dictates that there be an end of litigation; that those who have contested an issue shall be bound by the result of the contest, and that

matters once tried shall be considered forever settled as between the parties." Baldwin v. Iowa State Traveling Men's Ass'n, 283 U.S. 522, 525 (1931).

Indefinite continuation of a dispute is a social burden. It consumes time and energy that may be put to other use, not only of the parties but of the community as a whole. It rewards the disputatious. It renders Uncertain the working premises upon which the transactions of the day are to be conducted. The law of res judicata reduces these burdens even if it does not eliminate them . . . .

Restatement (Second) of Judgments ch. 1 at 11.

The plaintiff has had a full and fair

opportunity to litigate the validity of local rule 1(a) on statutory as well as constitutional grounds. He is entitled to no more. The defendants, on the other hand, are entitled to repose.

For the reasons stated above, the defendants' motion to dismiss is GRANTED. It is ORDERED that the plaintiff's complaint be and hereby is DISMISSED with prejudice.

Dated this 14th day of June, 1988.

BY THE COURT Bruce S. Jenkins USDC Judge

Footnotes:

*1 The plaintiff suggests that no

dismissal under rule 12(b)(6) for failure to state a claim is final because the court can always grant leave to amend the complaint. However, a court may deny leave to amend if it determines that the complaint cannot be saved by any amendment, that is, that no amendment the plaintiff could reasonably be expected to make could possibly state a claim for relief. See 5 C. Wright & A. Miller, Federal Practice and Procedure # 1357 at 613 (1969) and cases cited therein. The court in Galahad I dismissed the complaint without allowing leave to amend.

*2 The court's treatment of the plaintiff's antitrust claim in Galahad I may have resulted in part from the court's liberal reading of the pro se amended complaint in that case, which referred to "Antitrust Laws." No. 81-BJ-1205, Amendment to the Complaint, # 16 (emphasis

added). . *3 The plaintiff asserts that his section 1 claim should no be precluded because it involves a new fact, namely, that the defendants teach continuing legal education courses approved by the Colorado Supreme Court, for which they are paid. However, the plaintiff does not assert that the defendants began this practice after Galahad I was dismissed, nor has he shown that he could not have discovered this fact in time to raise it in the previous action. Moreover, he does not explain its significance to his section 1 claim, which is based on the defendants' allege combinetion to issu* locel rule 1(a) in restraint of trade. It would appear that the fact is merely some evidence of a motive and does not give rise to any new claim. QX. Maneco v. Orleans Board of Trade, 598 F. Supp. 231, 235 (D. Mass. 1984) (discovery of a new fact that would provide a motive for the defendants'

alleged antitrust conspiracy was not sufficient to deny an earlier judgment preclusive effect, especially given the broad discovery and amendment provisions of the federal rules, under which the "plaintiff certainly could have obtained the necessary evidence to litigate his alternate theory in the first proceeding"), aff'd, 773 F.2d 1 (1st Cir. 1985), cert. denied, 475 U.S. 1084 (1986). See also 773 F.2d at 7 ("the difference i motive for the conspiracy does not create a separate transaction").

IN THE UNITED DISTRICT COURT FOR THE DISTRICT OF COLORADO Civ.Act.# 84-1768

COMPLAINT

Giles Galahad, Plaintiff;

vs. Zita L.Weinsheink, John P. Moore; Richard P. Matsch, John L. Kane Jr., Sherman G. Finesilver, Hatfield (Jury Trial Demanded) Chilson, Jim R. Carrigan, and Alfred A. Arraj; Judges of the United States District Court for the District of Colorado; Defendants.

101) Jurisdiction for this Complaint arises under 28 USC 1337 (Commerce and Antitrust); 15 USC 15 and 25 (Clayton Act, #'s 4 & 16); and 28 USC 2201,2202 (Declaratory Relief). Complained of are violations by Defendants of 15 USC 1 (Sherman Act, Section 1). Demanded by Plaintiff is permanent injunctive relief against Defendants from the continuing and anticipated future violations; and

declaratory relief in the form of a declaratory judgment.

102) Plaintiff is, and has been continuously since before the operative facts herein complained of, licensed to the practice of law before the Supreme Court of the States of Pennsylvania and Alaska, the United States District Court for the District of Eastern Pennsylvania, the United States Court of Appeals for the Third Circuit, and the United States Patent and Trademark Office.

103) Plaintiff is not, and has never been, licensed to the practice of law before the Supreme Court of the State of Colorado.

104) Defendants are the judges of the United States District Court for the District of Colorado.

105) Defendants combined together and issued their Local Rule 1-a, which was in force in June of 1981 and continuously since.

106) Through their Local Rule 1-a, Defendant judges of the United States District Court for the District of Colorado did and do condition the licensing of one to the practice of law before the United States District Court for the District of Colorado upon the licensing of one to the practice of law before the Supreme Court of the State of Colorado.

107) In approximately June of 1981 Plaintiff formally requested of Defendants that Plaintiff be licensed to the practice of law before the United Styates District Court for the District of Colorado.

108) Defendants denied Plaintiff's

request, solely because Plaintiff was not licensed to the practice of law before the Supreme Court of the State of Colorado, as was and is required by the conditioning of Defendants Local Rule 1-a.

109) Because of Defendants' denial of Plaintiff's formal request, Plaintiff was injured; in that Plaintiff was not permitted by Defendants to conduct his business, the practice of law, more particularly the practice of law before the federal District Courts, within the locality in which Plaintiff resided, Colorado.

110.1) The licensing of one to the practice of law before the Supreme Court of the State of Colorado is the licensing of one to the monetarily-compensated performing of representative services for a client involved in a matter before, or

potentially before, that Court.

110.2) As a prerequisite to becoming licensed to the practice of law before the Supreme Court of the State of Colorado, one is required to pay to it a monetary fee, or fees.

110.3) The licensing one one to the practice of law before the Supreme Court of the State of Colorado is a monetarily-compensated service.

110.4) The licensing of one to the practice of law before the United States District Court for the District of Colorado is the licensing of one to tha monetarily-compensated performing of representative services for a client involved in a matter before, or potentially before, that Court.

110.5) As a prerequisite to becoming

licensed to the practice of law before the United States District Court for the District of Colorado, one is required to pay to it a monetary fee.

110.6) The licensing of one to the practice of law before the United States District Court for the District of Colorado is a monetarily-compensated service.

110.7) The jurisdiction of the United States District Court for the District of Colorado is a limited jurisdiction, established solely by Statutes of the Congress of the United States of America.

110.8) In a federally pre-emptive area such as patent law, the jurisdiction within Colorado of the United States District Court for the District of Colorado is exclusive of the jurisdiction of the Supreme Court of the State of Colorado.

110.9) The licensing of one to the practice of law before the United Stsates District Court for the District of Colorado is separate service from the licensing of one to the practice of law before the Supreme Court of the State of Colorado.

111) Defendant judges of the United States District Court for the District of Colorado have sufficient economic power to compell the conditioning of the licensing of one to the practice of law before the United States District Court for the District of Colorado to the licensing of one to the practice of law before the Supreme Court of the State of Colorado.

112.1) Those who are licensed to the practice of law before the Supreme Court of the State of Colorado are, under pain of having their licnese removed, required by the Supreme Court of the the State of

Colorado to periodically pay a monetary fee for, and attend, Continuing Legal Education courses approved by the Supreme Court of the State of Colorado.

112.2) Defendant judges of the United States District Court for the District of Colorado teach, and receive monetary fees therefrom, Continuing Legal Education courses approved by the Supreme Court of the State of Colorado.

112.3) Defendant judges of the United States District Court for the District of Colorado have an economic interest in the licensing of one to the practice of law before the Supreme Court of the State of Colorado.

113.1) There is a not insubstantial number of lawyers within the United States of America who are licensed to the practice of

law before the Supreme Courts of more than one State.

113.2) Each year within the United States of America there is a not insubstantial number of recent graduates of law schools who as a prerequisite to being licensed to the practice of law before the Supreme Court of a State, pay for and take the bar examinations of more than one State.

113.3) There is a not insubstantial amount of interstate commerce in the licensing of one to the practice of law before the Supreme Court of a State.

114) This conditioning by Defendants of the licensing of one to the practice of law before the United States District Court for the District of Colorado upon the licensing of one to the practice of law before the Supreme Court of the State of Colorado; is

a violation of the antitrust laws of the United States of America; being a tying arrangement in violation of Section 1 of the Sherman Act (15 USC 1).

115) Plaintiff's herein complained of injury which affected his business occurred by reason of Defendants' violation of the antitrust laws of the United States of America.

116) Plaintiff demands the abolition of the conditioning of the licensing of one to the practice of law before the United States District Court for the District of Colorado upon the licensing of one to the practice of law before the Supreme Court of the State of Colorado. Plaintiff demands a declaratory judgment that such conditioning violates Section 1 of the Sherman Act (15 USC 1) as being an unlawful tying arrangement.

117) A jury trial is demanded.

Submitted 30 August 1984 Giles Galahad, plaintiff pro se